

COMMITTEE ON BILLS ON SECOND READING

May 17, 2005

Chairman Lopez called the meeting to order.

The Clerk called the roll.

Present: Aldermen Lopez, Roy, Sysyn, DeVries, O'Neil

Chairman Lopez addressed Item 3 of the agenda:

Ordinances:

“Amending Sections 33.024, 33.025 & 33.026 (Marketing and Retention Specialist) of the Code of Ordinances of the City of Manchester.”

“Amending Sections 33.024, 33.025 & 33.026 (Public Health Dental Assistant) of the Code of Ordinances of the City of Manchester.”

Chairman Lopez stated and wasn't there an amendment to that. There was an amendment to Item I. So the motion for the amendment to I passed out to the Board?

Deputy City Clerk Johnson responded that amendment is not required as part of the ordinance. We would look for a motion that the ordinances ought to pass.

On motion of Alderman O'Neil, duly seconded by Alderman Roy it was voted to recommend that the ordinances ought to pass.

Chairman Lopez recessed the meeting.

Chairman Lopez called the meeting back to order.

Deputy City Clerk Johnson advised that there is an ordinance before you:

“Repealing an ordinance adopted May 20, 2003 and authorizing the Mayor to dispose of certain tax deeded property known as 628 Hanover Street, Map 314, Lot 37.”

This was an item that was brought to the Board under new business this evening and referred here appropriately.

Alderman Roy moved to approve the ordinance and refer to the full Board.

Deputy City Clerk Johnson stated the motion we would be looking for is to recommend that the ordinance ought to pass and further that the rules of the Board be suspended to allow the ordinance to be placed on its final reading this evening.

Chairman Lopez stated I will yield to the attorney to bring us some information before we move forward.

Atty. Andrew Bauer stated I am from Gottisman & Hollis in Nashua and I am here representing Southern NH Services on an emergency type of situation and we certainly appreciate the Board, the Mayor and its staff taking the time to properly address the situation that arose on an emergency basis. To give the Board a little bit of history by virtue of the fact that you haven't had an opportunity to totally review the situation, back in 1999 the City of Manchester took this 628 Hanover Street property for taxes and that land has since remained unproductive since that time. Due to a cooperative effort through my clients and the City conversations began to take place for the development of that parcel as an elderly housing complex here in the City of Manchester. After several discussions between the two entities, a purchase and sales agreement was reached on a purchase price of \$150,000 for the land. On that basis this ordinance was passed. At that time there was some discussion about some concerns about using the property strictly for elderly housing. In an effort to try and further that interest through the development of the property, my clients approached the chief counsel for HUD that runs the 202 program. The elderly housing projects are built under this Section 202 program, which is a totally federally funded housing project. My clients were able to receive a commitment from HUD in the amount of \$2.2 million to build this 28-unit single bedroom elderly housing complex at the site at 628 Hanover Street. As part of that process the HUD requirements will not allow a reverter right to be placed in the deed. In the ordinance itself, the ordinance did give the City Solicitor the option to find some way to try and restrict the property to elderly use including and up to but not limited to a righter reverter. The righter reverter is simply a right or something that is placed in the deed that says that if the property is ever used for something other than elderly housing the property would revert back to the City of Manchester. That type of provision in the deed would disqualify the property from being able to be used by HUD and we would not be able to...HUD would revoke the commitment for the \$2.9 million to build the elderly housing project and the project would not go forward. We are here today in front of the Mayor and Board of Aldermen to ask that the ordinance be

revised. I have worked with the City Solicitor's Office and I believe a revised ordinance has been presented to you folks at this point in time.

Thomas Clark, City Solicitor, stated Atty. Bauer has worked with our office. He has been dealing for the last couple of days with Atty. Arnold. An ordinance has been drafted which removes the reverter provision and allows this to move forward if it is the wish of the Board. It also allows for the pay off of the water lien.

Alderman Gatsas stated the question I have...I think we put the reverter in to make sure the property was going to be developed. Is there another agreement, Mr. Clark, that we can impose that if the Section 202 housing doesn't go forward for some reason and I know you have a commitment but as with anything some things change in life. Is there anything we can get that says if they don't go forward with the 202 HUD financing and they don't do an elderly project that this property is reverted back to the City? I want to make sure that we protect the City in case for some reason somebody doesn't flip that property if they don't get the funding.

Solicitor Clark replied I believe it is possible that the City may be given a right of first refusal on the property so they couldn't flip it. That wouldn't be a reverter provision. We can probably enter into a contractual arrangement with Southern NH Services where if they do not move forward on this project that they offer the property back to the City.

Alderman Gatsas stated with that same understanding that you would have the rights to distinguish what that time period would be and the price coming back to the City would be the \$150,000 that they paid for it.

Solicitor Clark responded I am not sure I understand about the timing, Alderman.

Alderman Gatsas replied in here it says that the City Solicitor...in this ordinance it says that you have the right to put a conditional timeframe on when it needs to be developed. I don't know why you would do it rather than we as a Board but that is okay...

Solicitor Clark interjected that is the way it was adopted. It wasn't something I asked for.

Alderman Gatsas stated my next question would be that it would come back and if you are saying we would have the right of first refusal that it comes back to us for the same price that they paid us for it.

Solicitor Clark responded correct.

Atty. Bauer stated if I may the building permit has been pulled, the construction contracts have been signed and our construction people are actually waiting to begin operations tomorrow if they can. The closing for the property would take place as expeditiously as the City could allow. We had hoped to be able to close by tomorrow if possible.

Solicitor Clark stated the ordinance that is before you tonight would expire in six months. In addition I was going to ask Atty. Bauer when the closing with HUD is because HUD's restrictions will require this to be elderly housing.

Atty. Bauer replied as part of the commitment to use the HUD funds we had to sign a use agreement. That use agreement is recorded in the Registry of Deeds, which will restrict the use for a period of 40 years for elderly housing.

Alderman Guinta stated one quick question I have just so we are clear does HUD...would HUD allow you to have a first right of refusal at \$150,000.

Atty. Bauer responded if it was structured such that the project for some reason didn't close I would suspect that that would be okay but the closing is imminent.

Alderman O'Neil moved to recommend that the ordinance ought to pass and that the rules be suspended to allow the Ordinance to be placed on its final reading this evening. Alderman Thibault duly seconded the motion.

Alderman DeVries stated Mr. Clark I thought I heard you indicate that the ordinance before us had a six month timeframe built into it. Could you direct me to where that is stated? Oh, I see it. Thank you.

Chairman Lopez called for a vote. There being none opposed, the motion carried.

There being no further business, on motion of Alderman DeVries, duly seconded by Alderman O'Neil it was voted to adjourn.

A True Record. Attest.

Clerk of Committee